IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8387 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

DAMNAGAR GRAM PANCHAYAT - Petitioner(s)

Versus

ANSUYABEN N SONPAL - Respondent(s)

==========

Appearance :

MR AP RAVAL for MR GM JOSHI for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

==========

CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 09/08/2005

ORAL JUDGMENT

.

1.0 The petitioner has challenged the award dated 13.11.1999 passed by the Labour Court, Amreli, in

Reference No. 16 of 1998, whereby the petitioner was directed to pay an amount of Rs.40,000/- to the respondent by way of compensation in lieu of reinstatement in service on account of the closure of the petitioner's Institute.

2.0 The petitioner Institute decided to start sewing classes for the girls of the village with a view to make them self-reliant. On 30.09.1986 on account of non-availability of sufficient candidates, the course was closed and the respondent was discontinued from service. Against the said action, the respondent raised an industrial dispute by way of a reference. The Labour Court by impugned award passed the aforesaid directions. Hence, this petition.

3.0 Mr. AP Raval learned advocate appearing for Mr. G M Joshi for the petitioner has contended that the respondent was engaged for a particular work only and that to for a period of only two hours a day. He has submitted that the work for which the respondent was employed had come to an end on account of the closure of the establishment on 30.09.1986.

3.1 Mr. Raval has contended that the Labour Court has not considered the contention raised by the petitioner as regards the provisions of Section 2(oo)(bb) and that it was not a “retrenchment”. He has further submitted that the respondent herein cannot be said to be a “workman” under the provisions of the Industrial Disputes Act, 1947, and therefore, the Labour Court has committed serious error by awarding compensation to the respondent.

3.2 Mr. Raval has relied upon a decision in the case of Miss A. Sundarambal v. Government of Goa, Daman & Diu & ors reported in A.I.R. 1988 S.C. pg. 1700, wherein it has been held that a Teacher employed in a school does not fall within the definition of expression “workman” though the school is an industry, in view of the definition of “workman” as it now stands.

4.0 Though served none appears on behalf of the respondent. I have heard learned counsel for the petitioner and perused the documents placed on record. The contention raised by the learned advocate for the petitioner is required to be accepted since it is well established that the respondent was employed for a particular work only and that to for a specific period.

On closure of the establishment, the respondent was discontinued from the service. In my opinion, the said discontinuance from service cannot be termed to be “retrenchment” under the provisions of Section 2(oo)(bb) of the Industrial Disputes Act, 1947, and therefore, the respondent cannot be said to be entitled for compensation in lieu of reinstatement in service. Even otherwise, in view of the principle laid down in the aforesaid decision, the respondent cannot be said to be a “workman” under the provisions of the Industrial Disputes Act, 1947. Hence, the impugned award is required to be quashed and set aside.

5.0 For the foregoing reasons, this petition is allowed. The impugned award dated 13.11.1999 passed by the Labour Court, Amreli, in Reference No. 16 of 1998 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *